

UNITED STATES DISTRICT COURT
DISTRICT OF MINNESOTA

Joshua Holiway,

Plaintiff,

v.

Synchrony Bank, N.A.,

Defendant.

Case No. _____

NOTICE OF REMOVAL

Defendant Synchrony Bank (“Synchrony”), by counsel, pursuant to 28 U.S.C. §§ 1331, 1441 and 1446, hereby notices removal of the state-court civil action known as *Joshua Holiway v. Synchrony Bank, N.A.*, from the District Court for the Tenth Judicial District for the County of Anoka, Minnesota, to the United States District Court for the District of Minnesota, and in support thereof Defendant states as follows.

1. On or about July 26, 2017, Plaintiff Joshua Holiway (“Holiway”) served a Complaint on Synchrony (the “Complaint”) in the District Court for the Tenth Judicial District for the County of Anoka, Minnesota (the “State Court”). A true and correct copy of the Complaint is attached hereto as **Exhibit 1**.

2. Except for the notice filed with respect to this Notice of Removal, as of the date of this filing, no pleadings, motions or papers have been filed with the State Court in this action.

3. As set forth more fully below, this case is properly removed to this Court pursuant to 28 U.S.C. § 1441 because Defendant has satisfied the procedural requirements for removal and this Court has subject matter jurisdiction over this action pursuant to 28 U.S.C. § 1331.

GROUND FOR REMOVAL

I. Defendant Has Satisfied The Procedural Requirements For Removal.

4. Synchrony was served with the Complaint on or about July 26, 2017. Therefore, this Notice of Removal is timely filed under 28 U.S.C. § 1446(b) because Synchrony is filing its Notice of Removal within 30 days of its receipt of the initial pleading setting forth the claim for relief upon which such action is based.

5. This Court is the proper division because it embraces the County of Anoka, Minnesota, where Holiway's action is pending. *See* 28 U.S.C. §§ 1441 and 1446(a).

6. No previous request has been made for the relief requested herein.

7. Pursuant to 28 U.S.C. § 1446(d), a copy of this Notice of Removal, together with all Exhibits, is being served on Holiway's counsel, and a copy is being filed with the State Court Clerk. A copy of the State Court Notice of Filing of Notice of Removal, without its exhibits, is attached hereto as **Exhibit 2**.

II. Removal Is Proper Because This Court Has Subject Matter Jurisdiction.

8. United States District Courts are vested with jurisdiction to consider cases or controversies "arising under" the laws of the United States of America. *See* 28 U.S.C. § 1331.

9. Removal of such cases is governed by 28 U.S.C. § 1441(a). Section 1441(a) provides that "any civil action brought in a State court of which the district courts of the United States have original jurisdiction, may be removed by the defendant or the defendants, to the district court of the United States for the district and division embracing the place where such action is pending." *See* 28 U.S.C. § 1441(a).

10. Here, Holiway's Complaint purports to assert a claim against Synchrony for alleged violations of the Telephone Consumer Protection Act, 47 U.S.C. § 227 *et seq.* ("TCPA"). *See* Complaint ¶ 1.

11. Holiway's Complaint alleges violations of a federal statute—the TCPA—and consequently his claims “arise[] under” the laws of the United States. *See* 28 U.S.C. § 1331. Therefore, this Court may properly exercise jurisdiction over Holiway's TCPA claim.

12. Given that the requirements for federal question jurisdiction are satisfied, this case is properly removed.

WHEREFORE, Defendant Synchrony Bank, by counsel, respectfully requests that the above-referenced action, originally filed in the District Court, Tenth Judicial District for the State of Minnesota, County of Anoka, be removed to this Court pursuant to 28 U.S.C. §§ 1441 and 1446, and Synchrony requests that this Court retain jurisdiction for all further proceedings in this matter.

Dated: August 25, 2017

**ANTHONY OSTLUND BAER &
LOUWAGIE P.A.**

By: s/ Cory D. Olson

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